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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/562,009	12/23/2005	David Haitin	31221	1057

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EXAMINER	
BAINBRIDGE, ANDREW PHILIP	
ART UNIT	PAPER NUMBER
3754	

MAIL DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/562,009	HAITIN ET AL.	
	Examiner	Art Unit	
	ANDREW P. BAINBRIDGE	3754	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-19* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-19* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *23 December 2005* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *12/23/2005*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

1. Claim 15 is objected to because of the following informalities: the phrase "said inlet an outlet blades" appears to be meant to be "said inlet *and* outlet blades". Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. **Claims 1-3, 5-7, 12-13 and 15 are rejected under 35 U.S.C. 102(b)** as being anticipated by US 4,060,183 (Puurunen).

4. Puurunen in figure 1 has a gating system for controlling flowable vegetable matter 1 (col. 1 lines 6—68) falling by gravity through a passageway 8 with an inlet blade 6 and an outlet blade 7 with driven piston members 15-16 with cylindrical drivers 13-14 that move the blades into and out of the passageway 9 (see figure 1) with a control system 24-27 that closes the inlet blade 6 first and then the outlet blade 7 when closing the passageway and opens the outlet blade 7 and then the inlet blade 6 when opening the passageway 9 (col. 2, lines 25-68), the outlet blade 6 carries a seal 17 that cooperates to seal the passageway 9, the inlet and outlet blades 6-7 are surrounded by frames 4-5 that are each pairs of frames that provide a corridor for the inlet and outlet blades to toggle into and out of the passageway (col. 2, lines 1-20).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. **Claim 4 is rejected under 35 U.S.C. 103(a)** as being unpatentable over Puurunen in view of US 6,318,402 (Ladeira).

8. Puurunen has all of the elements of claim 2 except for an inflatable seal that inflates to create a seal after the outlet blade is in the closed position, and deflates before the outlet blade is moved to its open position. Ladeira in figures 1-15 has a toggling blade 18 with an inflatable seal 42 that follows a control system 24 to inflate and deflate the seal as appropriate (col. 3, lines 45-65). It would be obvious to one of ordinary skill in the art to adapt Puurunen with Ladeira because Ladeira provides a way to create an even tighter seal when the blade is in the closed position.

9. **Claim 8-9 are rejected under 35 U.S.C. 103(a)** as being unpatentable over Puurunen in view of US 4,535,801 (Neale).

10. Puurunen has all of the elements of claims 8-9 except for the frame members of the outlet blade and the outlet blade itself carry a series of air jets that clean the surfaces of the outlet blade as it is toggled between the open and closing position. Neale in figures 1-4 teaches a toggling blade 20 with a set of jets 21-22 that help to clean the surface of the blade as it travels between its opening and closing position, with a series of air jets 17 located on the frame member that also assist as well. It would be obvious to one of ordinary skill in the art to adapt Puurunen with Neale because Neale provides a way to clean out debris that could prevent a tight seal.

11. **Claim 10 is rejected under 35 U.S.C. 103(a)** as being unpatentable over Puurunen in view of US 3,557,822 (Chronister).

12. Puurunen has all of the elements of claim 10 except for the frame surrounding the outlet blade has a sloped surface to help push the outlet blade into a closed position. Chronister in figures 1-5 has a toggling blade 18 that is forced up a frame member 64, 66 with a sloped surface that helps to assure that the blade has fully sealed the passage 14. It would be obvious to one of ordinary skill in the art to adapt Puurunen with Chronister because Chronister provides a way to seat the blade more fully to provide a better seal.

13. **Claim 11 is rejected under 35 U.S.C. 103(a)** as being unpatentable over Puurunen in view of US 4,524,796 (Ayers, Jr. et al.).

14. Puurunen has all of the elements of claim 11 except for a common housing for the drivers that includes air inlet and outlets. Ayers in figures 1-2 has a common housing (see figure 1) that surrounds the drivers 17 and 25 and the housing has air

inlets and outlets 49, 51, and the passageway 39. It would be obvious to one of ordinary skill in the art to adapt Puurunen with Ayers because Ayers provides a way to keep the debris of the system within a housing and also allows the debris to be blown off the drivers during operation.

15. **Claim 14 is rejected under 35 U.S.C. 103(a)** as being unpatentable over Puurunen in view of US 6,508,387 (Simon et al.).

16. Puurunen has all of the elements of claim 12 except for the drive members are screws and the driven member is a nut. Simon teaches a toggling blade 38 that has a screw 142 for a drive member and a nut 144 for a driven member. It would be obvious to one of ordinary skill in the art to adapt Puurunen with Simon because Simon provides a way to toggle the blade with a well established and reliable method of translating the blade.

17. **Claim 16 is rejected under 35 U.S.C. 103(a)** as being unpatentable over Puurunen in view of US 5,341,856 (Appenzeller).

18. Puurunen has all of the elements of claim 16 except for the passageway communicating with a tank that then is pressurized to convey the material to another destination. Appenzeller in figures 1-2 a tank 10 that communicates with a pressurized conveyor 2 (col. 3, lines 5-20) that leads to a passage 15 that finally leads to a silo 16. It would be obvious to one of ordinary skill in the art to adapt Puurunen with Appenzeller because Appenzeller provides a way to keep the passageway clear by simply moving excess material to a remote silo, which can only increase the utility of the dispensing system.

19. **Claims 17-18 are rejected under 35 U.S.C. 103(a)** as being unpatentable over Puurunen in view of Appenzeller as applied in claim 16, and further in view of US 3,429,554 (G.M.Pro).

20. Puurunen in view of Appenzeller as applied in claim 16 has all of the elements of claims 17-18 except for the control system that only pressurizes the exiting tank when the outlet blade is closed. Pro teaches in figures 1-5 a series of pressurized vessels 90, 92, 94 with associated pressure introducing pipes 128, 130 that allows the vessels 90, 92, and 94 to only become pressurized after their closures 138, 140 are sealed in position. It would be obvious to one of ordinary skill in the art to adapt the Puurunen-Appenzeller combination with Pro because Pro provides a way to increase the pressurization of the exiting passage by eliminating a potential method for pressure to escape.

21. **Claim 19 are rejected under 35 U.S.C. 103(a)** as being unpatentable over Puurunen in view of Appenzeller and Pro as applied in claim 18, and further in view of US 6,010,041 (Lonardi et al.).

22. Puurunen in view of Appenzeller and Pro as applied in claim 18 has all of the elements of claim 19 except for two gating systems that are designed to be used alternatively, one being filled while one is emptied in conjunction with the apparatus of claim 18. Lonardi teaches in figures 1-13 a set of two gating systems 42 and 44 that are designed to be filled from the source conveyor 15 by taking turns being emptied and then filled (see figure 8). It would be obvious to one of ordinary skill in the art to adapt

the Puurunen-Appenzeller-Pro combination with Lonardi because Lonardi provides a way to keep filling the gating systems while emptying them at the same time.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANDREW P. BAINBRIDGE whose telephone number is (571)270-3767. The examiner can normally be reached on Monday to Thursday, 9:30 AM to 8:30 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on 571-272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/A. P. B./
Examiner, Art Unit 3754

/Kevin P. Shaver/
Supervisory Patent Examiner, Art Unit 3754